

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Henry County Board of Education)	File No. SLD-143402
Abbeville, Alabama)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45 ✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

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ORDER**Adopted: October 5, 2001****Released: October 10, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. Before the Accounting Policy Division (Division) is a Request for Review filed by Henry County Board of Education (Henry County), Abbeville, Alabama, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Henry County seeks review of SLD's denial of part of its Funding Year 2 application for discounts under the schools and libraries universal service mechanism.² For the reasons discussed below, we deny the Request for Review and affirm SLD's decision.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules require that the applicant make a bona fide request for services by filing

¹ Letter from Neil Dodson, Henry County Board of Education, to Federal Communications Commission, filed October 25, 1999 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

with the Administrator an FCC Form 470,⁴ which is posted to the Administrator's website for all potential competing service providers to review.⁵ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.⁶ To demonstrate compliance with the competitive bidding requirement, an applicant must, in connection with each funding request, cite an FCC Form 470 in which the same service for which the funding request seeks discounts was posted for competitive bidding.⁷ Because funding is applied for and awarded on an annual basis, the cited FCC Form 470 must also have sought the same category of service later contracted for and reflected in the FCC Form 471.⁸

3. Henry County seeks review of SLD's denial of Funding Request Number (FRN) 276939, which sought discounted internal connections.⁹ SLD issued a Funding Commitment Decision Letter denying funding for FRN 276939 on the grounds that "[t]he 470 cited did not include service of this type, therefore it does not meet the 28 day competitive bidding requirement."¹⁰ Henry County then sought review directly from the Commission.

4. In its Request for Review, Henry County asserts that SLD denied its application for two reasons: first, the competitive bidding problem noted above, and second, the absence of a contract "reference" number.¹¹ With respect to the competitive bidding problem, Henry County argues that because it properly posted a request for service, it satisfied the competitive bidding

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (December 1998) (FCC Form 470).

⁵ 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service First Report and Order* in part and reversing and remanding on unrelated grounds), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000).

⁶ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1998) (FCC Form 471).

⁷ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 1998) (Form 471 Instructions), at 18.

⁸ See SLD Year 2 Program Description, at 11 (December 1998). In Funding Year 2, applicants were required to file FCC Form 470s even if they were seeking services for pre-existing contracts that were exempted from competitive bidding requirements. *Id.* at 11.

⁹ FCC Form 471, Henry County School District, filed April 5, 1999, at 3.

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Neil B. Dodson, Henry County School District, dated October 12, 1999 (Funding Commitment Decision Letter), at 5.

¹¹ Request for Review, at 1.

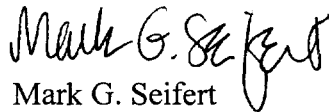
requirements.¹² With respect to the reference number, Henry County argues that the FCC Form 471 Instructions specifically instructed it to leave this item blank.¹³

5. On review, we note initially that Henry County is mistaken that it was denied for failing to put down a reference number. The Funding Commitment Decision Letter does note, in the field for "Provider Contract Number," that this number was "not provided."¹⁴ However, it does not rely on this information in denying funding. Rather, the funding denial explanation solely relied on the competitive bidding violation.¹⁵

6. Turning to this issue, we find that SLD correctly determined that Henry County did not post its request for competitive bidding. The FCC Form 470 cited in support of all of the requests in Henry County's FCC Form 471 only posted a request for telecommunications services.¹⁶ The FRN at issue, FRN 276939, requests discounted internal connections.¹⁷ Because Henry County failed to post the service for which it seeks discounts, it did not satisfy the Commission's competitive bidding requirements.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Henry County Board of Education, Abbeville, Alabama, on October 25, 1999, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹² *Id.*

¹³ *Id.*

¹⁴ Funding Commitment Decision Letter, at 5.

¹⁵ *Id.*

¹⁶ FCC Form 470, Henry County School District, USCN 930170000124375, filed December 23, 1999, at 2.

¹⁷ FCC Form 471, Henry County School District, filed April 5, 1999, at 3.